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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/737,432	12/15/2000	Ching-Jye Chang	AUS9-2000-0701-US1	1904

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EXAMINER
VU, THONG H

ART UNIT	PAPER NUMBER
2142	

DATE MAILED: 05/11/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

PTO-90C (Rev. 10/03)

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE <u>3</u> MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.
- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
  Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

1)☒ Responsive to communication(s) filed on *15 December 2000*.

2a)☐ This action is **FINAL**.   2b)☒ This action is non-final.

3)☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

4)☒ Claim(s) *1-18* is/are pending in the application.

    4a) Of the above claim(s) _____ is/are withdrawn from consideration.

5)☐ Claim(s) _____ is/are allowed.

6)☒ Claim(s) *1-18* is/are rejected.

7)☐ Claim(s) _____ is/are objected to.

8)☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

9)☐ The specification is objected to by the Examiner.

10)☒ The drawing(s) filed on *15 December 2000* is/are: a)☒ accepted or b)☐ objected to by the Examiner.

    Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).

    Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).

11)☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

12)☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).

    a)☐ All   b)☐ Some *   c)☐ None of:

      1.☐ Certified copies of the priority documents have been received.

      2.☐ Certified copies of the priority documents have been received in Application No. _____.

      3.☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

    * See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

1) ☒ Notice of References Cited (PTO-892)

2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)

3) ☒ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date <u>5</u>.

4) ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____ .

5) ☐ Notice of Informal Patent Application (PTO-152)

6) ☐ Other: _____ .

1.   Claims 1-18 are pending.

Double Patenting

2.   The nonstatutory double patenting rejection is based on a judicially created

doctrine grounded in public policy (a policy reflected in the statute) so as to prevent the

unjustified or improper timewise extension of the "right to exclude" granted by a patent

and to prevent possible harassment by multiple assignees. See *In re Goodman*, 11

F.3d 1046, 29 USPQ2d 2010 (Fed. Cir. 1993); *In re Longi*, 759 F.2d 887, 225

USPQ 645 (Fed. Cir. 1985); *In re Van Ornum*, 686 F.2d 937, 214 USPQ 761 (CCPA

1982); *In re Vogel*, 422 F.2d 438, 164 USPQ 619 (CCPA 1970);and, *In re Thorington*,

418 F.2d 528, 163 USPQ 644 (CCPA 1969).

A timely filed terminal disclaimer in compliance with 37 CFR 1.321(c) may be

used to overcome an actual or provisional rejection based on a nonstatutory double

patenting ground provided the conflicting application or patent is shown to be commonly

owned with this application. See 37 CFR 1.130(b).

Effective January 1, 1994, a registered attorney or agent of record may sign a

terminal disclaimer. A terminal disclaimer signed by the assignee must fully comply with

37 CFR 3.73(b).

Claims 1-18 are provisionally rejected under the judicially created doctrine of

obviousness-type double patenting as being unpatentable over claims 1-33 of

copending Application No. –09/737725. Although the conflicting claims are not

identical, they are not patentably distinct from each other because.

(*Application #432, claim 7*). An apparatus for managing resources within a distributed data processing system, the apparatus comprising:

receiving means for receiving a request for an action at a target resource within the distributed data processing system, wherein completion of the action depends upon operations of a set of resources along a logical route through the distributed data processing system;

securing means for securing, in response to a determination that completion of the action requires that the set of resources operate at high levels of performance, operating conditions within the distributed data processing system for high levels of performance by the set of resources and the target resource; and

granting means for granting, in response to securing high level performance conditions, the request for the action.

(*Application #725, claim 12*). An apparatus for managing devices within a distributed data processing system, the apparatus comprising:

receiving means for receiving a request for an action at a target device within the distributed data processing system, wherein completion of the action depends upon communication protocol operations on a set of devices along a logical route through the distributed data processing system;

identifying means for identifying a set of supported protocols (i.e.: set of resources) that are common to the set of devices along the logical route;

determining means for determining a set of allowable supported protocols in the set of supported protocols that can be used to complete the action;

first selecting means for selecting, in response to a determination of the Set of allowable supported protocols, an allowable supported protocol for the action; and

granting means for granting the request for the action in accordance with the selected allowable supported protocol (i.e.: securing high level performance conditions).

This is a <u>provisional</u> obviousness-type double patenting rejection because the conflicting claims have not in fact been patented.

Furthermore, there is no apparent reason why applicant was prevented from presenting claims corresponding to those of the instant application during prosecution of the application which matured into a patent. See *In re Schneller*, 397 F.2d 350, 158 USPQ 210 (CCPA 1968). See also MPEP § 804.

Claim Rejections - 35 USC § 102

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

> A person shall be entitled to a patent unless –
>
> (e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

3.   Claims 1-18 are rejected under 35 U.S.C. § 102(e) as being anticipated by Dowd et al [Dowd 6,141,755].

4.   As per claim 7, Dowd discloses an apparatus for managing resources within a distributed data processing system, the apparatus comprising:

receiving means for receiving a request for an action at a target resource within the distributed data processing system, wherein completion of the action depends upon operations of a set of resources along a logical route (i.e.: virtual path) through the distributed data processing system [Dowd, a firewall security apparatus connected to an

external network and an internal network, Fig 1, col 5 line 65-col 2 line 24, col 8 lines

44-col 9 line 2];

securing means for securing, in response to a determination that completion of

the action requires that the set of resources operate at high levels of performance (i.e.:

high speed network), operating conditions within the distributed data processing system

for high levels of performance by the set of resources and the target resource [Dowd,

Firewall validates the digital bit stream as being part of an approved data flow, col 6

lines 25-35]; and

granting means for granting, in response to securing high level performance

conditions, the request for the action [Dowd, access has been granted, col 4 lines 8-26;

validate PDU as part of an approved data flow, col 6 lines 25-35; conditionally

approved, col 6 lines 36-59; col 7 lines 42-62; col 8 lines 15-col 9 lines 2, 3-19].

5.   As per claim 8, Dowd discloses rejecting a subsequent request for an action that

requires operations on one of the resources in the set of resources as inherent feature

of firewall allow or disallow the connection based on the evaluation process,[Dowd, col

8 lines 44-col 9 line 2].

6.   As per claim 9, Dowd discloses reserving exclusive access to the set of

resources and the target resource [Dowd, This path is formed by initiating signaling

messages that pass between switches on specific VPI, VCI pairs that are reserved

solely for signaling, col 2 line 62-col3 line 6]

7.   As per claim 10, Dowd discloses generating a restricted session identifier (i.e.:

link level identifier) [Dowd, link level identifier with a list of approved flows, col 4 line 54-

col 5 line 7; col 6 lines 36-59];

associating the restricted session identifier with the granted action [Dowd, the

route authentication process examines the path used to set up the connection and

determines if this path is consistent with the participants associated with the connection,

col 4 lines 8-26];

transmitting the restricted session identifier to gateways responsible for the set of

resources, wherein gateways along the route permit exclusive access to the set of

resources in accordance with the restricted session identifier associated with an action

[Dowd, the firewall controller 28 determines whether an arriving digital bit stream PDU is

data, control information, or a signaling message by comparing the link level information

associated with the arriving digital bit stream PDU to an entry in the firewall database,

col 6 lines 60-65].

8.   As per claim 11, Dowd discloses deriving a set of logical routes from a network

topology mapping, wherein each logical route is a series of endpoints that comprise an

endpoint-to-endpoint route for completing the requested action [Dowd, The firewall

controller 28 examines this path list and compares (or map) it to the network topology

created by the examination of control messages and logged messages in the firewall

database, col 8 line 44-col 9 line 2]

9.   As per claim 12, Dowd discloses selecting the logical route, wherein the logical

route does not include resources for which exclusive access has previously been

granted.

10.   Claims 1-6 and 13-18 contain the similar limitations set forth of apparatus claims

7-12. Therefore, claims 1-6,13-18 are rejected for the similar rationale set forth in claims

7-12.

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11.   Claims 1-18 are rejected under 35 U.S.C. § 102(e) as being anticipated by

Srivastava [6,684,331 B1]

12.   As per claim 7, Srivastava discloses an apparatus for managing resources within

a distributed data processing system, the apparatus comprising:

        receiving means for receiving a request for an action at a target resource within

the distributed data processing system, wherein completion of the action depends upon

operations of a set of resources along a logical route through the distributed data

processing system [Srivastava, multiple mutlicast proxy nodes, a logical tree, abstract;

col 27 lines 54-col 28 line 35];

        securing means for securing, in response to a determination that completion of

the action requires that the set of resources operate at high levels of performance (i.e.:

highly distributed data), operating conditions within the distributed data processing

system for high levels of performance by the set of resources and the target resource

[Srivastava, an intermediate node among multiple multicast proxy nodes requests a new

session key (i.e.: session ID) from the group controller which encrypted (i.e.: secured)

the new session key, col 5 lines 35-65; to provide high distributed data, col 9 lines 5-20];

granting means for granting, in response to securing high level performance

conditions, the request for the action [Srivastava, stored and distributed ID –based keys,

col 17 lines 45-67; user securely communicate with the other member of the multicast

group, col 18 lines 29-43].

13.   As per claim 8, Srivastava discloses rejecting a subsequent request for an action

that requires operations on one of the resources in the set of resources.

14.   As per claim 9, Srivastava discloses reserving exclusive access to the set of

resources and the target resource [Srivastava, prevent an unauthorized user, col 11

lines 15-23].

15.   As per claim 10, Srivastava discloses generating a restricted session identifier

[Srivastava, the group cpntroller encrypted the new session key, col 16 lines 60-col 17

line 5];

associating the restricted session identifier with the granted action [Srivastava,

the intermediate node has a separated secured private channel, col 16 line 60-col 17

line 5];

transmitting the restricted session identifier to gateways responsible for the set of

resources, wherein gateways along the route permit exclusive access to the set of

resources in accordance with the restricted session identifier associated with an action

[Srivastava, stored and distributed ID –based keys, col 17 lines 45-67; user securely

communicate with the other member of the multicast group, col 18 lines 29-43].

16.   As per claim 11, Srivastava discloses deriving a set of logical routes from a

network topology mapping, wherein each logical route is a series of endpoints that

comprise an endpoint-to-endpoint route for completing the requested action [Srivastava,

the clients of amulticast group are mapped to a leaf of a binary tree, col 15 line 66-col

16 line 10].

17.   As per claim 12, Srivastava discloses selecting the logical route, wherein the

logical route does not include resources for which exclusive access has previously been

granted [Srivastava, the intermediate node has a separated secured private channel,

col 16 line 60-col 17 line 5].

18.   Claims 1-6 and 13-18 contain the similar limitations set forth of apparatus claims

7-12. Therefore, claims 1-6,13-18 are rejected for the similar rationale set forth in claims

7-12.

Claim Rejections - 35 USC § 103

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all

obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set
forth in section 102 of this title, if the differences between the subject matter sought to be patented and
the prior art are such that the subject matter as a whole would have been obvious at the time the
invention was made to a person having ordinary skill in the art to which said subject matter pertains.
Patentability shall not be negatived by the manner in which the invention was made.

19.   Claims 1-18 are rejected under 35 U.S.C. § 103 as being unpatentable over

Huang et al [Huang, 6,446,125 B1] in view of Kawarai et al [Kawarai 6,687,225 B1].

20.   As per claim 7, Huang discloses an apparatus for managing resources within a

distributed data processing system, the apparatus comprising:

receiving means for receiving a request for an action at a target resource within

the distributed data processing system [Huang, the global resource manager manages

the session according to a criticality level, a timing requirement and a QoS of the

session, col 4 lines 22-28] , wherein completion of the action depends upon operations

of a set of resources along a logical route through the distributed data processing

system Huang, execution path of data flow, col 7 lines 50-60; data processing path, col

12 lines 29-44];

granting means for granting, in response to securing high level performance

conditions, the request for the action [Huang, permit execution of the arriving session,

col 22 lines 55-65].

However Huang does not detail securing means for securing, in response to a

determination that completion of the action requires that the set of resources operate at

high levels of performance, operating conditions within the distributed data processing

system for high levels of performance by the set of resources and the target resource;

A skilled artisan would have motivation to implement the session management

on Huang's apparatus and found Kawarai teaching. Kawarai discloses a bandwidth

control apparatus wherein the control apparatus being configured to secured a

bandwidth while guaranteeing (i.e.: secure) the service quality and making a best of

service [Kawarai, abstract]

Therefore, it would have been obvious to one having ordinary skill in the art at

the time the invention was made to incorporate the secure a bandwidth, guarantee

service with a best effort as taught by Kawarai into the Huang's apparatus in order to

utilize the session management. Doing so would provide an effective user of network

resources for end to end communication.

21.	As per claim 8, Huang-Kawarai disclose rejecting a subsequent request for an

action that requires operations on one of the resources in the set of resources [Huang,

commit/abort phase, col 20 lines 14-41].

22.	As per claim 9, Huang-Kawarai disclose reserving exclusive access to the set of

resources and the target resource [Huang, distributed session, col 7 lines 50-60].

23.	As per claim 10, Huang-Kawarai generating a restricted session identifier

[Kawarai, connection Identifier, col 6 lines 25-33];

associating the restricted session identifier with the granted action [Kawarai, secure bandwidth, col 6 lines 25-33];

transmitting the restricted session identifier to gateways responsible for the set of resources, wherein gateways along the route permit exclusive access to the set of resources in accordance with the restricted session identifier associated with an action [Huang, all session on the list are successfully locked, col 23 lines 25-31].

24.   As per claim 11, Huang-Kawarai deriving a set of logical routes from a network topology mapping, wherein each logical route is a series of endpoints that comprise an endpoint-to-endpoint route for completing the requested action [Huang, a scheduling spanning tree, col 11 lines 14-63].

25.   As per claim 12, Huang-Kawarai selecting the logical route, wherein the logical route does not include resources for which exclusive access has previously been granted as a design choice.

26.   Claims 1-6 and 13-18 contain the similar limitations set forth of apparatus claims 7-12. Therefore, claims 1-6,13-18 are rejected for the similar rationale set forth in claims 7-12.

27.   Any inquiry concerning this communication or earlier communications from the examiner should be directed to examiner Thong Vu, whose telephone number is (703)-305-4643.

The examiner can normally be reached on Monday-Thursday from 8:00AM- 4:30PM.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, *Jack Harvey*, can be reached at (703) 305-9705.

Any inquiry of a general nature or relating to the status of this application should be directed to the Group receptionist whose telephone number is (703) 305-9700.

Any response to this action should be mailed to: Commissioner of Patent and Trademarks, Washington, D.C. 20231 or faxed to :

After Final	(703) 746-7238
Official:	(703) 746-7239
Non-Official	(703) 746-7240

Hand-delivered responses should be brought to Crystal Park 11,2121 Crystal Drive, Arlington. VA., Sixth Floor (Receptionist).

Thong Vu
Patent Examiner
Art Unit 2142